



[6450-01-P]

DEPARTMENT OF ENERGY

Western Area Power Administration

Agency Information Collection Extension

AGENCY: Western Area Power Administration, DOE.

ACTION: Submission for Office of Management and Budget review; Request for comments.

SUMMARY: Western Area Power Administration (Western), an agency within the Department of Energy (DOE), has submitted an extension to an existing Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review, comment and approval, as required under the Paperwork Reduction Act of 1995. The ICR seeks a 3-year extension for Western's Applicant Profile Data form (APD), OMB Control No. 1910-5136. The ICR described below identifies the request, including the anticipated public burdens. The ICR is necessary for the proper performance of Western's functions. Western markets a limited amount of Federal power. Due to the high demand for Western's power and limited amount of available power, Western needs to be able to collect information under the ICR to evaluate who will receive an allocation. This public process only determines the information Western will collect in its ICR. The actual allocation of Federal power will be done through a separate process and is outside the scope of this notice.

DATES: To ensure consideration, comments regarding this collection must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. The Paperwork Reduction Act requires OMB to make a decision on the extension of the ICR within 60 days after this publication or receipt of the proposed collection of

information, whichever is later. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, please advise the DOE Desk Officer at OMB of your intention to make a submission as soon as possible. You may phone the Desk at 202-395-4718.

ADDRESSES: Written comments should be sent to: The DOE Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10102, 735 17th Street, NW, Washington, DC 20503.

A copy of the comments should be sent to Western at PRAComments@wapa.gov or Mr. Ronald Klinefelter, Assistant General Counsel, Western Area Power Administration, Corporate Services Office, 12155 W. Alameda Parkway, Lakewood, CO 80228-8213.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the APD and instructions should be directed to Mr. Ronald Klinefelter at the above address or telephone (720) 962-7010. The APD is available on Western's Web page at ww2.wapa.gov.

SUPPLEMENTARY INFORMATION:

I. Statutory Authority

Reclamation Laws are a series of laws arising from the Desert Land Act of 1872 and include, but are not limited to: the Desert Land Act of 1872, Reclamation Act of 1902, Reclamation Project Act of 1939, and the Acts authorizing each individual project such as the Central Valley Project Authorizing Act of 1937.¹ The Reclamation Act of 1902 established the Federal reclamation program.² The basic principle of the Reclamation Act of 1902 was that the United States, through the Secretary of the Interior, would build and operate irrigation works from the

¹ See Ch. 107, 19 Stat. 377 (1872), Ch. 1093, 32 Stat. 388 (1902), Ch. 418, 53 Stat. 1187 (1939), Ch. 832, 50 Stat. 844, 850 (1937), all as amended and supplemented.

² See, Ch. 1093, 32 Stat. 388 (1902), as amended and supplemented.

proceeds of public land sales in the 16 arid Western states (a 17th was later added). The Reclamation Project Act of 1939 expanded the purposes of the reclamation program and specified certain terms for contracts that the Secretary of the Interior enters into to furnish water and power.³ Congress enacted the Reclamation Laws for purposes that include enhancing navigation, protection from floods, reclaiming the arid lands in the Western United States, and for fish and wildlife.⁴ Congress, generally, intended the production of power would be a supplemental feature of the multi-purpose water projects authorized under the Reclamation Laws.⁵ No contract entered into by the United States for power may impair the efficiency of the project for irrigation purposes.⁶ Section 5 of the Flood Control Act of 1944 is read *in pari materia* with Reclamation Laws.⁷ In 1977, the Department of Energy Organization Act transferred the power marketing functions of the Department of the Interior to Western, a separate and distinct administration within DOE.⁸

II. Purpose of Proposed Collection

Western is collecting and will continue to collect the data under its APD to properly perform its function of marketing a limited amount of Federal hydropower. The information Western collects is voluntary. Due to the high demand for Western's power and limited amount of available power, Western will use the information collected in the APD (and has used the information collected under the current OMB-approved control number), in conjunction with its marketing plans, to determine an entity's eligibility and, ultimately, who will receive an allocation of Federal power. As a result, the information Western collects is both necessary and useful.

³ See, Ch. 418, 53 Stat. 1187 (1939), as amended and supplemented.

⁴ See, e.g., Ch. 832, 50 Stat. 844, 850 (1937), as amended and supplemented.

⁵ See, e.g., Ch. 832, 50 Stat. 844, 850 (1937), as amended and supplemented.

⁶ See, 43 U.S.C. § 485h(c).

⁷ See Act of December 22, 1944, Ch. 665, 58 Stat. 887, as amended and supplemented.

⁸ See, 42 U.S.C. § 7152(a)(1)(D).

Western notes the Paperwork Reduction Act and associated *Federal Register* notice is a process whereby Western obtains approval from OMB to collect information from the public. It is a legal requirement Western must comply with before requesting potential preference customers to submit an application for power. The Paperwork Reduction Act process is not the process where interested parties request an allocation of Federal power. The allocation of power from Western is outside the scope of this process and is completed in a separate process by each Western region, when required.

III. Background to This Process and Responses to Comments

A. Background

On April 2, 2014, in compliance with the Paperwork Reduction Act⁹, Western published a notice in the *Federal Register* inviting comments on extending Western's APD, OMB Control No. 1910-5136.¹⁰ Western provided a 60-day comment period. As part of that notice, Western also invited comments on: (1) whether the proposed continued collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Western is not proposing any significant changes in the content and format of the APD. As stated in the 60-day *Federal Register* notice, Western posted the changes

⁹ See 44 U.S.C. §§ 3501, *et seq.*

¹⁰ See 79 FR 18545 (2014).

and a description on why the changes were made on its Web page.¹¹ Western also noted in its Invitation for Comments that there was an error made in 2011 entering the information into ROCIS.gov, the government's regulatory information clearing house.¹² The ROCIS error identified Western as collecting 30 APDs on an average annual basis instead of 33.3. In the final *Federal Register* notices in both 2008 and 2011, Western determined, on average, it will collect 33.3 APDs on an average annual basis.¹³ For the 2014-2017 period, Western will continue to collect 33.3 responses on an average annual basis. Western will have this error corrected when the information is inputted into ROCIS for the 2014-2017 period.

In April 2014, concurrent with the publication of the *Federal Register* notice, Western posted an Invitation for Comments on its Web page. Western e-mailed over 1,000 potentially interested entities and customer groups, informing them of the publication of the *Federal Register* notice and Invitation for Comments. The e-mail went to stakeholders in Western's service territory, which includes, but is not limited to, California, Nevada, Arizona, Utah, New Mexico, Colorado, Wyoming, Montana, Texas, North Dakota and South Dakota.

B. Response to Comments

Western received no public comments.

IV. Information Collection Request: Applicant Profile Data, OMB Control No. 1910-5136

Western has submitted to OMB the request to extend Western's APD. The APD and responses to the APD will not be part of a system of records covered by the Privacy Act¹⁴ and will be available under the Freedom of Information Act.¹⁵

¹¹ See 79 FR 18545 (2014); <http://ww2.wapa.gov/sites/Western/Documents/APDcomments.pdf>.

¹² See *Extension of OMB No. 1910-5136, Invitation for Comments* at p. 6 (2014).

¹³ See 73 FR 31,463 (2008); 76 FR 49,764 (2011).

¹⁴ See 5 U.S.C. § 552(a).

¹⁵ See 5 U.S.C. § 552. Western reserves the right to redact information to protect confidential or sensitive information, as provided under FOIA.

A copy of the APD is available on Western's Web page at ww2.wapa.gov. As discussed, Western is not making any significant changes in the content and format of the APD. As of February 2014, applicants can complete the APD directly online at Western's Web page. The APD, the administrative record for the proposal justifying its continued use, and identifying burden hours are available for inspection and copying at Western's Corporate Services Office.

As part of this process, Western has identified what it believes is the minimum amount of information Western needs for its regional offices to properly perform the functions of the agency. Due to the variations that may develop in each region, the region, through its marketing plan, may determine that it does not need to collect all of the information contained in the APD. As a result, Western will allow each region to use subsets of the form, where one region's APD may request less information than another region's APD. Also, to ensure equitable treatment of applications, when issuing a call for applications, Western may provide additional directions to clarify certain sections of the APD, e.g., identify the year or years to use in preparing the APD. Rather than over collect unnecessary information, Western seeks to collect only the minimal amount of information it needs. Western evaluated the possibility of using the same APD form, instructing applicants to fill out only certain sections; however, this approach could lead to an applicant ignoring or misunderstanding Western's instructions and providing unnecessary information. Using a subset of information and providing clarifying directions will lead to a more consistent process and will minimize the time an applicant uses to complete the APD.

To receive an allocation of Federal power from Western, the applicant must provide the information requested in the APD. If the requested information is not applicable or is not available, the applicant will note it on the APD. Western will request, in writing, additional information from any applicant whose application is deficient. Western will notify the applicant

when the application is due. In the event an applicant fails to provide sufficient information to allow Western to make a determination regarding eligibility by the due date, the application will not be considered.

V. Paperwork Reduction Requirements

A. Introduction.

1. OMB Number: Western's existing OMB Number is 1910-5136. This number is displayed on the front page of the APD. It expires on September 30, 2014.

2. Title: Applicant Profile Data.

3. Type of Review: Western is seeking to extend its APD for 3 years.

4. Purpose: The APD is necessary for the proper performance of Western's functions. Western markets a limited amount of Federal power. Western has discretion to determine who will receive an allocation. Due to the high demand for Western's power and limited amount of available power under established marketing plans, Western needs to be able to collect information to evaluate who will receive an allocation. As a result, the information Western collects is both necessary and useful. This public process only determines the information Western will collect in its application. The actual allocation of Federal power will be done through a separate process and is outside the scope of this proceeding.

5. Respondent: The response is voluntary. However, if an entity seeks an allocation of Federal power, the applicant must submit an APD. Western has identified the following class of respondents as the most likely to apply: municipalities, cooperatives, public utilities, irrigation districts, Native American Tribes, and Federal and State agencies. The respondents will be located in Arizona, California, Colorado, Iowa, Kansas, Minnesota, Montana, Nebraska, Nevada, New Mexico, North Dakota, South Dakota, Texas, Utah, and Wyoming. The information

submitted on the APD will not be part of a system of records covered by the Privacy Act¹⁶ and will be available under the Freedom of Information Act.¹⁷

6. Annual Estimated Number of Respondents. The responses will be periodic and occur when Western has power available under an allocation process. Based on historical data, Western anticipates it will receive approximately 100 requests for power during the 3-year period when the OMB Clearance Number is in effect. This results in an estimated annual average of 33.3 respondents.

7. Number of Burden Hours and Estimated Reporting and Record Keeping Costs:

a. Initial Application: Western anticipates that it will take less than 8 hours to complete the APD. Once the respondent completes the APD, it will submit the APD to Western for Western's review. After submitting the APD, provided the APD is complete and no clarification is required, Western does not anticipate requiring any further information for the APD from the applicant, unless the applicant is successful in obtaining a power allocation. The applicant submits only one APD. It does not submit an APD every year. If the applicant receives a power allocation, the applicant will need to complete a standard contract to receive its power allocation. Western's standard contract terms are outside the scope of this process.

b. Recordkeeping: There is no mandatory recordkeeping requirement for the applicant if it does not receive an allocation of Federal power. In such case, any recordkeeping of the APD by a respondent is voluntary. For those entities that receive a Federal power allocation, Western requires the successful applicant to keep the information for 3 years after the applicant signs its Federal power contract. The 3-year record retention policy will allow Western sufficient time to administer the contract and to ensure the applicant provided factual information in its

¹⁶ See 5 U.S.C. § 552(a).

¹⁷ See 5 U.S.C. § 552. Western reserves the right to redact information to protect confidential or sensitive information, as provided under FOIA.

application. A 3-year record retention policy will have little impact on most businesses in the electric utility industry. Western anticipates that it would take less than 1 hour per successful candidate, per year, for recordkeeping purposes. Western anticipates that in a 3-year period, Western will have approximately 30 successful applicants.

c. Methodology: Based on the total number of burden hours and the total number of applications described above, Western expects that over a 3-year period, the total burden hours to complete the APD is 800 hours (100 applicants over 3 years x 8 hours per applicant). This converts to an annual hourly burden of 266.667 hours. An entity will only complete the APD once. It is not required each year.

Based on the above, Western anticipates that there will be additional cost burdens for recordkeeping of 1 hour per year for each applicant who receives a Federal power allocation. Western anticipates that over the course of 3 years there will be 30 successful applicants. The power may be allocated in year 1, year 2 or year 3. For the purposes of determining the cost burden, Western will presume all 30 applicants received an allocation in year 1. As a result, the annual hourly burden for recordkeeping is 30 hours.

For the purposes of this cost burden analysis, Western is assuming that a utility staff specialist will complete the APD. Western estimates a utility staff specialist rate, including administrative overhead, to be approximately \$112/hour. For recordkeeping, Western estimates an administrative support rate of \$56/hour. Based on the above, Western estimates the total annual cost as $(266.667 \text{ hour/year} \times \$112/\text{hour}) + (30 \text{ hour/year} \times \$56/\text{hour}) = \$31,546.67$ per year.

Using the above estimates, the cost to complete the APD is a one-time cost of \$896. In addition to the one-time cost, the applicant, if it successfully receives a power allocation, will

incur an additional expense of 1 hour for recordkeeping per year x \$56 per hour for a total recordkeeping cost of \$168 for 3 years. Thus on a per applicant basis, assuming the applicant receives a Federal power allocation, the total cost for the applicant over a 3-year period is \$1,064.

d. Summary of Burdens:

Table 1: Annual Hour Burden Estimates

Activity	Number of respondents	Number of responses per respondent	Average burden hour per response	Sub-total burden hours
APD	33.333	1	8	266.67
Recordkeeping	30	1	1	30.00
			Total Burden	296.67

Table 2: Annual Cost Burden Estimate

Instrument	Number of respondents	Number of responses per respondent	Average annual burden hour	Cost per burden hour	Cost per response	Sub-total cost
Prepare APD	33.333	1	8	\$112	\$ 896.00	\$29,866.67
Recordkeeping	30	1	1	\$56	\$ 56.00	\$1,680.00
					Total Cost	\$31,546.67

The procedure and process for the allocation of power shall be the subject matter of a separate notice and is outside the scope of this process.

B. Does the collection of data avoid unnecessary duplication?

To avoid unnecessary duplication, only entities that desire a new Western allocation are required to submit an APD.

As it relates to each of the components of the APD, there is no duplication. Section 1 is information Western needs to determine who the applicant is, whether the applicant is a

statutorily-defined preference entity,¹⁸ and whether the applicant is ready, willing, and able to receive and/or distribute Federal power. Section 2 identifies the amount of Federal power that the applicant requests. Section 3 identifies the applicant's loads. Section 4 identifies the applicant's resources. Section 5 identifies the applicant's transmission delivery arrangements to receive Federal power. Section 6 is voluntary and provides the applicant with the ability to provide any additional information. Section 7 is an attestation that the information provided is true and accurate to the best of the applicant's knowledge.

C. Does the collection reduce the burden on the respondent, including small entities, to the extent practicable and appropriate?

The information requested is the minimum amount of information needed to determine whether the applicant qualifies as a statutorily-defined preference entity and is ready, willing, and able to receive an allocation of Federal power.¹⁹

D. Does the collection use plain, coherent, and unambiguous language that is understandable to the respondent?

The collection uses plain, coherent, and unambiguous language that is understandable to the target audience. The terms are those used in the electric utility industry. Western does not market power to individual members of the public such as homeowners or shopkeepers. Preference entities are statutorily-designated potential customers who generally are involved in the power business. As a result, the language used in the application is understandable to the target audience.

E. Is the collection consistent with and compatible with the respondent's current reporting and recordkeeping practices to the maximum extent practicable?

The information collection is voluntary. Western will use the information to determine whether an applicant qualifies as a preference entity to receive an allocation of Federal power.

¹⁸ See e.g., 43 U.S.C. § 485h(c).

¹⁹ See e.g., 43 U.S.C. § 485h(c).

As discussed above, there is no mandatory recordkeeping requirement on the applicant if it does not receive an allocation of Federal power. For those entities that receive a Federal power allocation, Western requires that they keep the information for 3 years after Western grants the power allocation and the applicant signs a Federal power contract. The 3-year record retention policy for such applicants allows Western sufficient time to administer the contract and to ensure the applicant provided factual information in its application. Western anticipates that a 3-year record retention policy will have little impact on most businesses in the power industry who will keep the APD as part of their normal business records. The procedure and process for the allocation of power shall be the subject matter of a separate notice and is outside the scope of this process.

F. Does the collection indicate the retention period for any recordkeeping requirements for the respondent?

The APD identifies that there is no recordkeeping requirement for the respondent if it does not receive an allocation of Federal power. It also identifies that applicants who receive an allocation of Federal power must retain the records for 3 years.

G. Does the collection inform the public of the information the public needs to exercise scrutiny concerning the agency need to collect information (the reasons the information is collected, the way it is used, an estimate of the burden, whether the response is voluntary, required to obtain a benefit, or mandatory and a statement that no person is required to respond unless a valid OMB control number is displayed)?

If an entity desires a Federal power allocation from Western, Western needs certain information to determine whether the entity is eligible to receive power. Western has a limited amount of power available and uses its discretion in allocating power. In order to use its discretion in allocating power, Western will use the information collected on the application. Western will not accept incomplete applications. Western will work with any entities that may need assistance in completing the application. No person is required to submit any information

unless a valid OMB control number is displayed. No person is required to submit any information unless they desire a Federal power allocation.

H. Is the collection developed by an office that has planned and allocated resources for the efficient and effective management and use of the information collected?

Western's power marketing offices will administer and evaluate the applications. Use and management of the collected information has been factored into each office's functions and resource requirements. Historically, Western has requested the same relative information from applicants and effectively used Western resources to utilize and manage the information in its determinations. Each power marketing office will make a recommendation to Western's Administrator on which applicant(s) should be awarded a Federal power allocation based on the information contained in the APD. Western's Administrator shall use his discretion in the final award of power allocations. The procedure and process for the allocation of power shall be the subject matter of a separate notice and is outside the scope of this process.

I. Does the collection use effective and efficient statistical survey methods?

Since the information collected is used to determine whether an applicant receives an allocation of Federal power, this section is inapplicable.

J. Does the collection use information technology to the maximum extent practicable to reduce the burden and to improve data quality, agency efficiency, and responsiveness to the public?

The APD will be accessible for downloading via Western's Web page. Western will accept e-mail submission of the APD, as well as submission via fax or regular mail. Applicants also can enter the information on an electronic APD on Western's Web page.

VII. Invitation for Comments

Western invites public comment on its request to extend its APD that Western submitted to OMB pursuant to the Paperwork Reduction Act of 1995. The Paperwork Reduction Act requires

OMB to make a decision on the ICR within 60 days after this publication or receipt of the proposed collection of information, whichever is later.²⁰ Comments should be sent directly to the addresses listed in the Addresses Section above.

DATED: August 15, 2014

Mark A. Gabriel
Administrator

[FR Doc. 2014-19960 Filed 08/21/2014 at 8:45 am; Publication Date: 08/22/2014]

²⁰ See 5 CFR 1320.10(b).